

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

TOWN OF FLORENCE, a political  
subdivision of the State of Arizona;  
SWVP-GTIS MR, LLC, a Delaware  
Limited Liability Company,

Petitioners,

vs.

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY, SCOTT PRUITT,  
Administrator, United States  
Environmental Protection Agency,  
ALEXIS STRAUSS, Acting Regional  
Administrator, United States  
Environmental Protection Agency  
Region 9,

Respondents.

Docket No. \_\_\_\_\_

**PETITION FOR REVIEW**

Pursuant to 42 U.S.C. § 300j-7(a) and Rule 15 of the Federal Rules of Appellate Procedure, Petitioners, the Town of Florence and SWVP-GTIS MR, LLC (collectively “Petitioners”) hereby petition the Court for review of an Underground Injection Control Aquifer Exemption (the “Aquifer Exemption”) issued on May 1, 1997 by EPA Region 9 for EPA Permit No. AZ396000001, a copy of which is attached as Exhibit 1, based upon grounds arising after the expiration of the 45-day period. (Section 300j-7.)

DATED: November 22, 2017

s/ Jessica L. Beckwith

---

Ronnie P. Hawks  
James L. Csontos  
Jessica L. Beckwith  
JENNINGS, HAUG &  
CUNNINGHAM, L.L.P.  
Attorneys for Petitioner SWVP-GTIS  
MR, LLC

s/ Barbara U. Rodriguez-Pashkowski

---

Barbara U. Rodriguez-Pashkowski  
GUST ROSENFELD, P.L.C.  
Attorneys for the Petitioner Town of  
Florence

## **CERTIFICATE OF SERVICE**

On November 22, 2017, pursuant to Rules 3(d) and 15(c)(1) of the Federal Rules of Appellate Procedure, a copy of the foregoing was mailed by First Class Mail, postage prepaid to the following persons who were admitted to participate in the agency proceedings:

Bradley J. Glass  
D. Lee Decker  
Gallagher & Kennedy PA  
2575 E. Camelback Road  
Suite 1100  
Phoenix, AZ 85016  
Counsel for Florence Copper, Inc.

Rita Maguire  
Maguire, Pearce & Storey, PLLC  
2999 N. 44<sup>th</sup> Street, Suite 650  
Phoenix, AZ 85018  
Counsel for Florence Copper, Inc.

George A. Tsiolis  
351 Lydecker Street  
Englewood, NJ 07631  
Counsel for Florence Copper, Inc.

John L. Anderson  
2631 N. Presidential Drive  
Florence, AZ 85132

Linus Everling  
Thomas L. Murphy  
Gila River Indian Community  
525 W. Gu u Ki  
P. O. Box 97  
Sacaton, AZ 85147

Merrill C. Godfrey  
Ian A. Shavitz  
Michael-Corey Hinton  
Akin Gump Strauss Hauer & Feld, LLP  
1333 New Hampshire Avenue  
N.W. Washington, D.C. 20036-1564  
Counsel for Gila River Indian  
Community

Pursuant to Rule 15(c) of the Federal Rules of Appellate Procedure, the Circuit Clerk will cause, on November 22, 2017 a copy of the Petition for Review to be served on each of the following:

Alexa Engelman  
Office of Regional Counsel  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Dustin Minor  
Office of Regional Counsel  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Alexis Strauss  
Acting Regional Administrator  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Scott Pruitt  
U.S. Environmental Protection Agency  
Office of the Administrator  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1101A  
Washington, D.C. 20460

s/ Jessica L. Beckwith

---

Ronnie P. Hawks  
James L. Csontos  
Jessica L. Beckwith  
JENNINGS, HAUG &  
CUNNINGHAM, L.L.P.  
Attorneys for Petitioner SWVP-GTIS  
MR, LLC

## **EXHIBIT 1**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

• ORIG PERMIT  
COPY Aquifer  
Permit

UNDERGROUND INJECTION CONTROL AQUIFER EXEMPTION  
FOR

EPA PERMIT #AZ396000001

In compliance with provisions of the Safe Drinking Water Act, as amended, (42 USC 300f-300j-9, commonly known as the SDWA) and attendant regulations incorporated by the U.S. Environmental Protection Agency under Title 40 of the Code of Federal Regulations (CFR), the zone located:

- (1) in the subsurface interval of approximately 400 feet to 1600 feet below ground surface (bgs); and
- (2) below the upper aquifer exemption boundary which is 200 feet above the oxide zone, or the base of the Middle Fine-Grained Unit (MFGU), whichever is further below ground surface; and
- (3) above the lower aquifer exemption boundary which is the base of the reactive interval amenable to copper leach solutions, encompassing the oxide zone, which contains an economical amount of copper, and copper in the sulfide zone that is leachable; and
- (4) laterally within 500 feet of the mine zone boundary delineated in Appendix A of EPA Permit #AZ396000001, and within the line connecting the following coordinate system points:

From a point (point 1) in the southwest of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 748028.6 and easting 646937.7

To a point (point 2) in the southeast of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 748042.1 and easting 648619.5

To a point (point 3) in the southeast of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona

*Printed on Recycled Paper*

Coordinate system Northing 747656.9 and easting 648617.4

To a point (point 4) in the southeast of the northeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 747675.3 and easting 650811.6

To a point (point 5) in the southeast of the northeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 747216.3 easting 650662.8

To a point (point 6) in the southeast of the northeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 747230.7 and easting 651548.8

To a point (point 7) in the southeast of the southeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 745379.4 and easting 651309.7

To a point (point 8) in the southeast of the southeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 745369.4 and easting 651019.1

To a point (point 9) in the northeast of the northeast of Section 33,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 743926.7 and easting 650758.8

To a point (point 10) in the northwest of the northeast of Section 33,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 743922.9 and easting 649898.8

To a point (point 11) in the northwest of the northeast of Section 33,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 743543.9 and easting 649897.6

To a point (point 12) in the northwest of the northwest of Section 33,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 743520.7 and easting 647281.7

To a point (point 13) in the southwest of the southwest of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 744512.8 and easting 649939.6

Florence Project  
Aquifer Exemption  
Page 2 of 3

To a point (point 14) in the southwest of the southwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 745392.3 and easting 646862.4

To a point (point 15) in the southwest of the southwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 745391.8 and easting 646552.4

To a point (point 16) in the southwest of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 747466.7 and easting 646824.3

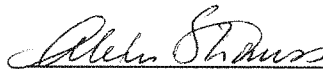
To a point (point 17) in the southwest of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 747468.8 and easting 646938.8

is exempted as an underground source of drinking water (USDW).

This aquifer exemption is granted in conjunction with the Class III Underground Injection Control permit issued to BHP Copper, for the injection of an acidic solution for the purpose of copper production at the Florence In-Situ Project, Pinal County, Arizona.

This aquifer exemption has no expiration date.

Signed this 1<sup>st</sup> day of May, 1997.



Alexis Strauss, Acting Director  
Water Division, EPA Region 9

Florence Project  
Aquifer Exemption  
Page 3 of 3